78-973

Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1978

DENNE M. HARRINGTON and GARY D. RONDEAU
Joint Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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In the
Supreme Court of the United States

OCTOBER TERM, 1978

NOS. 78-1239 and 78-1240

DENNE M. HARRINGTON and GARY D. RONDEAU
Joint Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION BY (DEFENDANTS) JOINT PETITIONERS FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT TO REVIEW THE JUDGMENT ENTERED SEPTEMBER 11, 1978, AFFIRMING THEIR CONVICTION UNDER 18 U.S.C.A., §401 (3), AND THAT ON HEARING THE JUDGMENT OF CONVICTION BE REVERSED.

OPINIONS BELOW

The opinion of the Court of Appeals will be submitted upon request.

JURISDICTION

The Judgement of the Court of Appeals was entered on September 11, 1978. This Court has jurisdiction under 28 U.S.C.A. §1254(1).

QUESTIONS PRESENTED

Whether the Supreme Court of the State of Washington or the Federal District Court for the Western District of Washington was correct in its interpretation of the Treaty Indian Fishing Rights under the Treaty of Medicine Creek.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Treaty of Medicine Creek, 10 Stat. 1132 (1954).

STATEMENT OF THE CASE

The defendants were convicted of criminal contempt and sentenced to 60 days in jail. It was alleged that the defendants had violated an injunction issued by the Federal District Court for the Western District of Washington. The District Court's injunction regulated the fishing for salmon in Puget Sound and certain other areas by non-indian commercial fishermen for the purpose of assuring to Indian fishermen the opportunity to catch 50% of the salmon runs, plus fish for ceremonial and subsistence purposes.

The defendants were originally convicted in Federal District Court for the Western District of Washington and this conviction was subsequently affirmed by the United States Court of Appeals for the Ninth Circuit. We seek review of the affirmance of this conviction and sentence, and outright reversal of the conviction.

REASONS FOR GRANTING THE WRIT

This case represents a minuscule portion of an enormous problem. Federal and state courts, including the United States Supreme Court, have wrestled with the "Indian fishing cases" for a number of years. During that period

Indians and non-indians have suffered property damage, physical injury, and economic distress as a consequence of failing to have a definitive interpretation of the critical portion of the Treaty of Medicine Creek by the United States Supreme Court. Now, for the first time, law abiding, gainfully employed, and otherwise good citizens will be going to jail as a result of the Supreme Court's failure.

For practical reasons, it cannot be expected that the Briefs in the instant cases will provide the Supreme Court with any additional insight not already at its disposal. The gathering of facts and research has been completed. This Court cannot allow these defendants, nor any others, to go to jail prior to reviewing the entire matter. There is no doubt that at some point in time such a review will take place. Under the circumstances it would be unjust to do so at a later date. The destruction of family units, lives, Indian and non-indian relations, and one of Washington's largest industries cannot be further tolerated. There is no question that, whatever the result, this Court's decision will be respected and appreciated. In any case, it is respectfully submitted that review should be granted.

Respectfully submitted,

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